

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

CIV 05-1074 BB/CEG

CR 01-683 BB

CR 02-953 BB

JOSE ESTEBAN GUERRERO,

Defendant-Movant.

ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

The Magistrate Judge filed her Proposed Findings and Recommended Disposition on April 10, 2007. *See Doc. 42.* Jose Esteban Guerrero ("Guerrero") filed his objections to the Proposed Findings and Recommended Disposition on May 9, 2007. *See Doc. 47.* The Court has carefully reviewed Guerrero's lengthy objections de novo and finds that he is not raising anything that was not raised in his § 2255 motion or his memorandum in support of his § 2255 motion. *See Docs. 1, 2, 11.* Guerrero fails to understand that his sentence was properly enhanced pursuant to 21 U.S.C. § 841(b)(1)(A), 21 U.S.C. § 802(44), and U.S.S.G. § 5G1.1(b). Section 4B1.1 of the Guidelines was never utilized at sentencing. The Court concurs with the Magistrate Judge's Proposed Findings and Recommended Disposition and finds Guerrero's objections to be without merit.

Wherefore,

IT IS HEREBY ORDERED THAT:

- 1) the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 42) are adopted;
- 2) the § 2255 motion to vacate, set aside, or correct sentence (Doc. 1) is denied;
- 3) the motion to amend is denied as moot (Doc. 22);
- 4) the motion to subpoena state records is denied (Doc. 23);
- 5) the motion for leave to reply is denied as moot (Doc. 34);
- 6) the motion for order of discovery is denied (Doc. 35);
- 7) the motion for evidentiary hearing is denied (Doc. 36); and
- 8) civil case number 05-1074 BB/CEG is dismissed with prejudice.


UNITED STATES DISTRICT JUDGE